

T³: Trustee Training Tips

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THE BOTTOM LINE

It's a phrase you hear often: What's the bottom line? Let me give you the bottom line. It means the conversation has reached the meat of the discussion—no more frills, just the bare essentials. So, let's talk about some bottom lines at your library

- 👍 Hire the best director you can find, demand excellence, and compensate enough to keep this person. Do not look for a bargain basement special in personnel. Do not tolerate mediocrity.
- 👍 Expect your director to apply the same principles to hiring staff. The library is not in the business of finding jobs for people; it's about finding the right people for the jobs.
- 👍 Always remember that an essential part of every trustee's job description is to advocate for the library. This means getting the most funding possible and that means taking the best tax rate offered each year.
- 👍 You are collecting the taxpayers' money to provide them library services, not to build up large savings. You have insurance for those disasters that might happen someday, maybe.
- 👍 Obey the laws regarding public libraries, local government, state government, etc. Don't think abiding by the Open Meetings or Fair Labor Standards Acts is for everybody else—it's for you, too.
- 👍 Establish policies that promote use of the library, not obstacles to using it. Accept that some misuse is the cost of doing business. Don't let the few create barriers for everyone else.
- 👍 Recognize that technology has, and continues, to turn our world upside-down. Computers, Internet, e-books, books on CD, and DVDs are today's delivery systems in addition to print. Print is not sacrosanct. Tomorrow will bring a delivery system we have not dreamed of yet.
- 👍 Libraries are about unfettered access to information—the serious kind and the not-so-serious. How your customers find something is not nearly as important as that they find it.
- 👍 Teenagers are part of your customer base, so embrace their needs as well. Graphic novels are not comic books.
- 👍 Public libraries are supposed to make learning fun. Librarians are not in the business of "elevating" any child's (or adult's) reading tastes, but quality children's service can be a part of a better future for our community, state, nation, and the world.
- 👍 The Board needs full participation of all its members. Take an active interest or make room for someone who will.

Whether you agree or disagree with these bottom lines, discuss them at an upcoming board meeting. You may surprise yourself and each other with your conclusions.

CONFLICTS OF INTEREST

With two vacancies on the United States Supreme Court, it is only to be expected that questions about conflicts of interest will be a staple of the nightly news for weeks to come. And while trustees of public libraries are not in quite the same category as nominees to SCOTUS (Supreme Court of The United States), they, too, must be concerned about this subject.

The Kentucky Revised Statutes (KRS 173.340; 173.510; 173.740) state that “no person is eligible to this office who is directly or indirectly interested in the sale to the library of books, magazines, supplies, equipment, materials, insurance, or services for which library funds are expended.” What exactly does that mean?

The first exemptions are fairly straightforward. Books and other library materials we can all recognize on sight. Land upon which the library intends to build is obvious enough, as would be repairs to the building, or new tires for the bookmobile. The murky area is what is meant by services, or to be more exact, to what extent are services covered in this statute. It is extremely difficult to write a definitive statement about what is and what is not covered. The area is just too squirmy to pin down that easily.

Some services are fairly obvious conflicts of interest: attorney for the library; architect for the library; technology consultant; decorator; etc. Selling insurance to the library is specifically stated as prohibited, but here is where the grayness starts to seep into the picture. What about someone who merely works in an insurance office? Or a bank?

While not the legal answer many would like to see here, this is where the “smell test” becomes the deciding factor. If it smells

like a conflict, if it is embarrassing to defend, if the public perception might be that is a conflict of interest, it probably is one—at least ethically if not legally.

One slightly more tangible test is to ask if the potential trustee will realize a profit from the library doing business with his agency or her bank. Obviously, a bank teller is not going to see an increase in wages just because the public library’s funds are in the bank where he works. Nor is a salaried employee of an insurance company going to have a monetary gain from the library’s business. The statute and the smell test both apply to the president of the bank or the owner of the agency. The same would hold true if a board candidate were a partner in a law firm that represented the library.

This issue’s bottom line is whether or not the trustee, or his immediate family, would see a profit from the library doing business with him. However, it gets murky once again if that profit is infinitesimal, and this is where the smell test is the only sensible way to approach it. (Afterall, in some small counties this would so limit the available pool of candidates that a board may be hard pressed to find quality replacements.) If the profit were merely “pocket change” it might pass the smell test, but it is only prudent for the board to discuss this thoroughly and determine that public perception will see it the same way they do. And, no, there is no set monetary amount that qualifies as either pocket change or profit.

Libraries serving more densely populated areas, where nominees may be unknown to most of the board members, may find it helpful to request a list of other boards upon which each new candidate sits. This could be an indicator of a conflict of interest that might otherwise be transparent at the time.

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Such information may be kept confidential and only used to determine eligibility for a seat on the library board. This is not the same as a financial disclosure, which some (non-library) boards not only require but make public.

So what do you do if you find a conflict or a perceived conflict of interest with a potential board member? There are really only two answers: (1) don't nominate that person for appointment; or (2) ask that person if she is willing to give up the library's business in order to serve on its board. Don't assume she'll say no. This very thing has happened several times in Kentucky library history. Some people care enough to forego the profit to be on the board.

Notice that throughout this article we have talked about "potential" trustees or "candidates" for the library board. What do you do if you discover a current member is in violation of the conflict of interest statute? If the conflict is one that is clearly stated in the law, then that trustee is ineligible to be on the board and should resign immediately. If the conflict is one that is ethical rather than legal in nature, if it can't quite pass the smell test, the trustee should still resign. Only if the conflict is so negligible as to be minute and the rest of the board truly believes it can pass the smell test, then the trustee can remain on the board and be a member in good standing.

One final warning: do not be confused by reports about SCOTUS nominees promising to recuse themselves from voting on those issues in which they are in conflict. That is not an option for library trustees. You are either eligible or not and there is no gray area; it is very black and white. You are either totally on the board or totally not on the board.

WHAT IS DIVERSITY?

The Kentucky Revised Statutes require, to the extent possible, "that the board includes members from different geographical areas, and from both cities and unincorporated areas, of the county." Passed by the General Assembly in 1964, the general understanding of board diversity at that time was limited to geography. And while geographic variety is still good, the general understanding of diversity today goes much further.

The "perfect" library board should include a mix of:

- Professional backgrounds
- Ages of trustees
- Racial/ethnic representation
- Types of library users (including some non-users if they bring a needed skill to the board)
- Number of years on the board
- Geographical representation of the library service area

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ANSWERS TO T³ QUIZ:

1. Which “bottom lines” sound like your board’s philosophy? Why or why not? [page 1]

This is a question only you and your board can answer. What you think may not be what the others think, though, so here’s a vehicle by which to introduce some basic philosophies about libraries and library service to the group for discussion. Some are more easily determined than others. At what level should your director be compensated? Are you doing the most you can to get funds for the library’s future? Are your savings too large to justify—really? Think about your policies from the user’s point of view; are they helping or hindering easy use of the library? Is every member contributing meaningfully? If not, what can you do to either bring them in or rein them in?

2. What is the smell test? How do you know if you’ve passed or failed it? [page 2-3]

Not a very business-like or legal sounding term, is it? But even attorneys use the smell test in answering questions about conflicts of interest from time to time. It is the commonsense test applied to those gray areas no one’s completely sure about. Does it smell bad? Then it probably is. And only your board, after discussion, can determine if whatever has passed or failed. Remember, if it looks like a duck and it walks like a duck and it sounds like a duck, it is probably a duck. If The Courier-Journal or the Herald-Leader were to interview you following a board meeting in which such a discussion took place, would you be worried about the board’s decision that something was not a conflict of interest? Would you be uneasy about the justifications the board used to make that decision?

3. Can a trustee recuse herself from a vote on which person to hire for a roof repair if the low estimate is from her brother-in-law? [page 3]

Doesn’t matter if it’s the low estimate or the high one. For the purposes of this question, it doesn’t matter that it’s the brother-in-law (though that is covered in the nepotism law). There is no such thing as recusal for a library board member. If there’s a conflict of interest, then said person is not eligible to be on the board at all and everything else becomes moot.

4. Which diversities are represented by your board? [page 3]

This is something only you and your fellow trustees know. Some diversity you can see by merely looking—age, race, gender—but others need to be discovered and considered before the potential trustee is even nominated. Cavet: Don’t work so hard at diversity that you bypass the best possible person for your empty board seat just to fill a quota. What skills you need in a board member is what you need and that’s justification enough. Just try to find some diversity when possible.

5. When can a group of board members, other than the full board, discuss library business? [page 4]

In the scheduled board meeting, with a quorum present, either at the regular monthly meeting or at a special called meeting that has been announced at least 24 hours in advance. Not only is discussion among a quorum at a social event prohibited because it is against the law, it isn’t good business to exclude the other trustees from the benefits of the discussion either.

LIBRARY LETTERS

Dear Marian Librarian,

Three of our board members all belong to the Lion's Club and, consequently, see each other once a week at meetings. Is it OK for us to discuss library business if we're not making any decisions?

-- Troubled Trustee

Dear Troubled,

No, it's not only not OK, it's in violation of the Open Meetings Act (KRS 61.805-61.850), assuming your library has a board membership of five. Any time a quorum of the board is together—whether at a board meeting, or playing golf, or tailgating—they are still a quorum of the board and shall not discuss library business. The fact that they are not making decisions is irrelevant. The public has not been notified and has no way of attending should they wish. All discussions, as well as votes, must be done in an open session.

HOW MUCH DO YOU KNOW?

The following quiz will let you test your knowledge on the topics covered in this publication. The expanded answers are under "Publications" on KDLA's web page @ [<www.kdla.ky.gov>](http://www.kdla.ky.gov).

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2. What is the smell test? How do you know if you've passed or failed it?
3. Can a trustee recuse herself from a vote on which person to hire for a roof repair if the low estimate is from her brother-in-law?
4. Which diversities are represented by your board?
5. When can a group of board members, other than the full board, discuss library business?

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